



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 13 2018

Donna Fagan

Staten Island, NY 10304

RE: MUR 7348

Dear Ms. Fagan:

The Federal Election Commission reviewed the allegations in your complaint received on March 9, 2018. On September 11, 2018, based upon the information provided in the complaint, and information provided by the respondents, the Commission found no reason to believe that Friends of Michael Grimm and Nancy Watkins in her official capacity as treasurer, Michael Caputo, or Caputo Public Relations violated 52 U.S.C. §§ 30116(a), 30118(a), decided to exercise its prosecutorial discretion to dismiss the allegation that Friends of Michael Grimm and Nancy Watkins in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.11(b), and close its file in this matter. Accordingly, the Commission closed its file in this matter on September 11, 2018. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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3 **RESPONDENTS:** Friends of Michael Grimm and MUR 7348
4 Nancy Watkins in her official capacity as Treasurer,
5 Michael Caputo, and
6 Caputo Public Relations
7
8

9 This matter was generated by a Complaint alleging violations of the Federal Election
10 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Friends of
11 Michael Grimm and Nancy Watkins in her official capacity as treasurer (“the Committee”),
12 Michael Caputo, and Caputo Public Relations. It was scored as a low-rated matter under the
13 Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to
14 allocate its resources and decide which matters to pursue.

15 The Complaint alleges that Michael Caputo, a partner in Caputo Public Relations, served
16 as an official spokesperson and advisor for the Committee since at least September 2017, but
17 that the Committee has not reported any payments or debts to Caputo or Caputo Public
18 Relations.¹ Complainant asserts that Caputo or Caputo Public Relations made and the
19 Committee accepted an excessive in-kind contribution or, in the alternative, that the Committee
20 failed to properly report payments or debts to Caputo or Caputo Public Relations.²

21 The Committee responds that Caputo is also Managing Director of Zeppelin
22 Communications and that its payments to Zeppelin Communications for Caputo’s services are
23 reflected on its 2018 April Quarterly Report and 2018 Pre-Primary Report.³

¹ Compl. at 1-3. (March 13, 2018).

² *Id.* at 4-5.

³ Committee Resp. at 2 (June 12, 2018).

1 The Act and Commission regulations require a candidate's principal campaign committee
2 to disclose the total amount of all contributions and disbursements made during the reporting
3 period.⁴ Commission regulations further require a candidate's principal campaign committee to
4 report debts or obligations in excess of \$500 as of the date on which the debt or obligation is
5 incurred.⁵

6 There is no available information to suggest that Caputo provided services to the
7 Committee through Caputo Public Relations, and the Committee presented documents showing
8 that it paid another of Caputo's companies, Zeppelin Communications, for these services.
9 Therefore, the Commission finds no reason to believe that Friends of Michael Grimm and Nancy
10 Watkins in her official capacity as treasurer, Michael Caputo, or Caputo Public Relations
11 violated 52 U.S.C. §§ 30116(a), 30118(a).

12 Although the Committee admits receiving services from Zeppelin Communications
13 starting in October 2017 at a rate of \$5,000 a month, it did not report a debt to Zeppelin
14 Communications in its 2017 Year-End Report. In furtherance of the Commission's priorities
15 relative to other matters pending on the Enforcement docket, the modest amount, and the fact
16 that the payments were reported on the Committee's 2018 April Quarterly Report and 2018 Pre-
17 Primary Report, the Commission exercises its prosecutorial discretion and dismisses the
18 allegations that Friends of Michael Grimm and Nancy Watkins in her official capacity as
19 treasurer violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.11(b). *Heckler v. Chaney*, 470
20 U.S. 821, 831-32 (1985).

⁴ 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a)(3), (b)(2).

⁵ 11 C.F.R. § 104.11(b); *see also* 52 U.S.C. § 30104(b)(8).